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CUBIST
PHARMACEUTICALS**Fax****To:** Deposit Account Branch**From:** Viana Daly

Intellectual Property Administrator

Tel: 781 860 8469

Fax: 781-860 1407

Fax: 703 308 6778**Pages:** 6 (including cover sheet)**Phone:****Date:** March 11, 2004**Re:** Deposit Account 50-1986**CC:**☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**● **Comments:**

According to our February 2004 statement, large entity fees were deducted from our deposit account for activity in USSN 10/211,028 (Docket No. C068/P) and 10/082,544 (Docket No. C053/C2). Cubist Pharmaceuticals, Inc. is a small entity. Therefore, we respectfully request that you refund the sum of \$320.00, which is the difference between the total small and large entity fees. Copies of the pertinent statement and authorizations are attached.

Thank you for your attention to this matter. Please contact me with any questions.

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USPTO Dep AccdFAX(refundreq) 031104.doc

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P. 781-860-8660

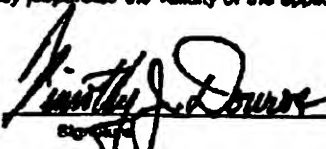
F781-860-1407

www.cubist.com

PTO/SB/96 (00-06)

Approved for use through 07/31/2006. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT		Doclet Number (Optional) C053/C2
In re Application of: Frederick B. Oleson, Jr., et al. Application No.: 10/082,544 Filed: February 20, 2002 For: METHODS FOR ADMINISTRATION OF ANTIBIOTICS Cubist Pharmaceuticals, Inc.		
The owner, Inc. , of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 164 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,468,967 . The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.		
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is released, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.		
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1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.		
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.		
2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record.		
1/13/2004 MAUSTIN 00000001 501986 10082544 FC:1814 110.00 DA		 Date Timothy J. Douros Typed or printed name 781 860 8660 Telephone Number
<input type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.		
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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.		

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 13 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PAGE 5/16 *RCVD AT 2/3/2004 4:34:04 PM [Eastern Standard Time] *SVL:USPTO-ETXRF-12 *DMS:8729301 *CSD:7818610566 *DURATION (mm:ss):03:42

Adjustment date: 03/30/2004 SDIRETA1
 02/13/2004 MAUSTIN 00000001 501986 10082544
 01 FC:1814 110.00 CR

03/30/2004 SDIRETA1 00000003 501986 10082544

02 FC:2614 55.00 DA

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PTO/SB/17 (10-03)

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FEE TRANSMITTAL
for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

Application Number	10/082,544
Filing Date	February 20, 2002
First Named Inventor	Frederick B. Oleson, Jr.
Examiner Name	Frank I. Choi
Art Unit	1616
Attorney Docket No.	C053/C2

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number
Deposit Account Name

50-1986

Cubist Pharmaceuticals

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
57	-20** = 37	x 9	= 333
Independent Claims	3	-3** = 0	x 43 = 0
Multiple Dependent			

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater. For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	55.00
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(a)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

SUBMITTED BY

Name (Print/Type)	Timothy J. Dowd	Registration No. (Attorney/Agent)	41,716	Telephone	781 860 8660
Signature	<i>Timothy J. Dowd</i>	Date	February 3, 2004		

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United States
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Deposit Account Statement

Requested Statement Month:

February 2004

Deposit Account Number:

501986

Name:

CUBIST PHARMACEUTICALS, INC

Attention:

TIMOTHY J DOUROS

Address:

65 HAYDEN AVE

City:

LEXINGTON

State:

MA

Zip:

02421

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
02/02	99	10211028	C068/P	1252	\$420.00	\$4,679.00
02/12	1	10082544	CUB-ICON	1251	\$110.00	\$4,569.00
02/13	1	10082544	CUB-ICON	1814	\$110.00	\$4,459.00

COB3/K2

\$ 210,00

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$3,099.00	\$640.00	\$0.00	\$4,459.00

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